

IN THE DISTRICT COURT OF THE UNITED STATES  
FOR THE WESTERN DISTRICT OF NORTH CAROLINA  
ASHEVILLE DIVISION

CIVIL NO. 1:08CV167

MOFFITT INTERNATIONAL, INC., )

Plaintiff, )

Vs. )

ORDER

CONSTRUCTION RECRUITING )  
SERVICES, LLC, and AVERY R. )  
FORESTER, )

Defendants. )  
\_\_\_\_\_ )

**THIS MATTER** is before the Court *sua sponte*.

On July 17, 2009, Plaintiff filed a motion for summary judgment and election of remedies pursuant to 18 U.S.C. §§ 1117(a) and (d). Defendant has not responded and the time to do so has not expired.<sup>1</sup> In the event Plaintiff prevails on summary judgment, the corporation may be entitled to recover costs, statutory damages, and/or reasonable attorney fees under

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<sup>1</sup> The docket record shows that since defense counsel was allowed to withdraw, Defendants' whereabouts are unknown. In addition, notices and Court orders mailed to the Defendants have been returned by the postal service as undeliverable. **See, e.g., Staff Notes, filed June 15, 2009.**

§§ 1117(a) and (d). Because Plaintiff did not include evidence regarding costs and/or the amount of attorney fees expended for prosecution of this matter at the time the summary judgment motion was filed, the Court will afford Plaintiff an opportunity to do so.

**IT IS, THEREFORE, ORDERED** that Plaintiff file an affidavit or other evidence setting forth the amount of costs and attorney fees expended in the prosecution of this action on or before **August 5, 2009**.

Signed: July 22, 2009

A handwritten signature in black ink, appearing to read 'Lacy H. Thornburg', is written over a horizontal line.

Lacy H. Thornburg  
United States District Judge

